

**WHATCOM COUNTY WATER DISTRICT No. 13**  
**Whatcom County, Washington**  
**January 1, 1990 Through December 31, 1991**

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**Schedule Of Findings**

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1. The District Should Pursue Settlement Of Bondholders Suit To Satisfy Debt Requirements

The district has continued to fail to generate revenues sufficient to meet its reserve and debt service requirements. This condition has been previously discussed in prior audit reports.

The district's Bond Resolution No. 21, Section 4, states, in part:

. . . The bond fund is hereby divided into two accounts, namely, a principal and interest account and a reserve account . . . the district hereby covenants to set aside and pay into such fund out of the gross revenues of the system, a fixed amount without regard to any fixed proportion, namely: (a) into the principal and interest account . . . an amount which . . . shall in the aggregate equal the interest to become due and payable on the bonds on the next succeeding interest payment date and on or before the first day of May 1988, an amount equal to the principal payable on May 15, 1988, on remaining outstanding bonds.

Further, the district's resolution states:

Into the reserve account, all payments of assessments received in Utility Local Improvement Districts No. 1 and 2 during the 30-day cash prepayment period of such assessments and all remaining assessment payments or installments thereof and interest and any penalties thereon collected until there shall be a total reserve of \$204,000 therein; provided, however, that such reserve amount may thereafter be reduced to and maintained at an amount not less than the next succeeding two years interest requirements for the bonds . . . .

The district has been unable to accumulate the required cash reserve or make the required bond interest and principal payments. This situation is primarily due to the financial difficulties of Peaceful Valley Limited Partnership, and their failure to pay assessments on their property. Peaceful Valley filed for bankruptcy in August 1988, and Whatcom County has foreclosed on a number of their properties.

As of December 31, 1990, the district had failed to accumulate the required \$204,000 into the reserve account. The full amount of the bond principal of \$1.2 million became due as of May 15, 1988, and has not been paid. In addition, the district has not had sufficient cash flow to make regular bond interest payments and interest payments are now delinquent. As a result, several lawsuits have been filed on behalf of the bondholders and the district has filed for bankruptcy. The outcome of these legal actions are unknown at this time.

We again recommend that the district pursue settlement of its debt.



2. The District Should Retain All Necessary Records

District officials were unable to locate 1990 records of billings and customer accounts receivable.

RCW 40.14.070 states, in part:

. . . Except as otherwise provided by law, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

- (1) The records are six or more years old;
- (2) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or
- (3) The originals of public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original . . . .

District officials indicated that the records were unavailable due to turnover in staff and the unintentional destruction of all billing and accounts receivable cards. The current clerk made attempts to gather as many of the records as possible.

The lack of records prevents the State Auditor's Office and other interested parties from having access to the complete information of the district's financial activities.

We recommend the district ensure that all records are safeguarded and retained in accordance with records retention schedules approved by the local records committee and that these records be available for audit.

3. A Control Account Should Be Used With Utility Billings And Collections

The district does not maintain a control account for utility billings and receivables, therefore, the accuracy of accounts receivables cannot be periodically reviewed.

The American Institute of Certified Public Accountants' *Audits of State and Local Government Units*, Revised Edition, states in Section 3.13:

Management should understand its responsibilities to implement and maintain adequate internal control systems and should be capable of:

Initiating procedures to detect areas of operation particularly vulnerable to fraud and misuse of assets or circumstances that may adversely affect the reliability of the government's financial statements.

Establishing procedures to monitor and evaluate compliance with internal control systems.

Instituting timely action to correct identified internal control system weaknesses.

District personnel did not maintain a control account as they did not feel benefits from doing so justified the time involved to perform the reconciliations. The lack of maintaining a control account increases the risk that errors or irregularities may occur in the receipting, recording and depositing of billings and collections, and not be detected in a timely manner, if at all.

We again recommend the district:

- a. Establish a control account for all utility accounts receivable. This control account would reflect the total amounts billed to and collected from customers each month, any account adjustments, and the balance due from all customers.
- b. Periodically reconcile the control account total for utility accounts receivable with the total of all individual customer subsidiary ledger cards to ensure the accuracy of account balances.

4. The District's Board Of Commissioners Should Keep Minutes Of All Public Meetings

The district's board of commissioners did not record minutes for all public meetings held outside regularly scheduled times. District officials were unable to provide minutes of three special meetings held in fiscal year 1991.

RCW 42.32.030 states, in part:

The minutes of all regular and special meetings . . . shall be promptly recorded and such records shall be open to public inspection. (Emphasis ours.)

District officials contend that they failed to record the minutes of special meetings due to their incorrect interpretation of the Open Public Meetings Act. The lack of records and notification of executive sessions held on special dates prevents the public and the State Auditor's Office from having access to a complete record of the actions and decisions of the board.

We recommend that the district ensure that all public meetings be recorded as required by the statute.

5. The District Should Avoid Lending Its Credit And Making A Gift Of Public Funds

The district should avoid lending its credit and making a gift of public funds. This situation occurred during 1990 and 1991 when the district inappropriately allowed the use of district property to the Peaceful Valley Country Club and provided free water and sewer hookups to lots that had not paid assessments to the district. During this same period, the district failed to consistently collect billings from the Peaceful Valley Country Club and other customers.

The district lacks statutory authority to lend credit or make gifts of public funds.

The *Constitution of the State of Washington*, Article VIII, Section 7 states, in part:

No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm . . . .

The district's management contends that due to the advice of legal counsel, the district did not require compensation for use of the golf course by the Peaceful Valley Country Club, nor did they aggressively seek payment for maintenance use fees for water and sewer billings. The district's management also chose to allow free hook-up to existing water and sewer lines which had been paid for by other customers through assessments. The bond holders, as well as the district's regular paying customers, are providing free services and interest free loans when the district does not charge for use of their assets or require payment for services.

We recommend the district:

- a. Reach agreement with the Peaceful Valley Country Club for adequate compensation for use of the golf course property.
- b. Establish policies and charge fees for hookups to the system for non-assessment payers.
- c. Aggressively pursue payment of past due billings by the Country Club and other customers.

6. The District Should Establish Written Policies For Handling Past Due Payments For Water And Sewer Service

The district should establish written policies handling past due payments for water and sewer service. The district does not have a current written policy to effectively and consistently collect past due accounts. Currently, late fees, liens, and water service terminations are not equitably or consistently applied to customers with past due accounts.

RCW 57.08.070 states in part:

The commissioners shall enforce collection of the water connection charges and rates and charges for water supplied against property owners . . . by addition of penalties of not more than ten percent thereof in case of failure to pay charges at times fixed by resolution. The commissioners may provide by resolution that where either water connection charges or rates and charges for water are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than eight percent per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

RCW 57.08.090 states, in part:

The district may, at any time after the connection charges or rates and charges for water supplied and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located . . .

In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water supplied are delinquent for a period of sixty days.

The district's management did not understand the importance of establishing written policies to set guidelines for late penalties and the termination of water service. By not having written guidelines to follow the district haphazardly applies penalties and water service terminations to past due customers.

We recommend that the district establish policies addressing collection method and procedures for past due accounts. We also recommend that the district follow these policies consistently.